

REMARKS

Attached hereto is a petition and fee for a three-month time extension.

Claims 1-20 are all the claims presently pending in the application. Claims 1, 3, and 9-13 have been amended to more particularly define the invention.

It is noted that Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claim 11 stands rejected under 35 U.S.C. § 101 as allegedly addressed to non-statutory subject matter.

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent Publication No. US 2001/0056425 to Richard.

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

As described and defined in, for example, independent claim 1, the claimed invention is directed to a backup system for backing up a hard disk of a computer which is connected to a server via a network. The server includes a boot OS creation section adapted to create a boot OS for only the computer, a backup section adapted to boot the computer with the boot OS and to store as a file the content of the hard disk inclusive of a system region in the computer into a designated backup destination regardless of a type of an OS installed and a type of a file system, a management information database adapted to store therein management information of the computer, and a kernel image adapted to serve for the creation of the boot OS.

Thus, the present invention relates to a backup system capable of easily performing

backup into a designate backup destination and optionally restore operation of an entire HD inclusive of the system region and regardless of the type of OS installed thereon.

Conventionally, as explained on page 1 of the specification, when the contents of the system region of a hard disk on a computer is backed up, it is impossible to perfectly store the system region because this region may often be updated even during the backup operation. Also, since the capacity of a backup destination must be checked at all times during the backup operation and because there is the possibility the content of the current hard disk is destroyed, it is difficult for a general user to backup the entire region of the hard disk.

The claimed invention, on the other hand, provides a backup system capable of easily executing or performing backup and/or restore operations of the entire hard disk, inclusive of the system region and regardless of the type of OS installed.

II. THE 35 USC §101 REJECTION

Claim 11 stands rejected under 35 U.S.C. §101. The claim has been amended above to overcome this rejection by rewriting it as a medium claim, as suggested by the Examiner.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

III. THE PRIOR ART REJECTION

The Examiner alleges that Richard teaches the claimed invention. Applicants submit, however, that there are elements of the claimed invention which are neither taught nor suggested by Richard.

As described in paragraph [0001], Richard is directed to the problem of backing up and restoring a pre-configuration of a computer system, including, as the Examiner points out, the capability of providing a restoration CDROM for this pre-configuration.

However, as explained at line 6 on page 2 of the specification, the present invention is intended to provide a backup of the entire contents of a hard disk, including the operating system and any pre-configuration information necessary to restore the entire contents back to the computer hard disk or to another computer. That is, the present invention restores data files and any other objects stored on the hard disk, in addition to the operating system and other pre-configuration information. Richard provides at most the restoration of the operating system and pre-configuration information. Moreover, the present invention includes the capability restore the contents of the hard disk to the computer via the network without using a CDROM.

Hence, turning to the clear language of the claims, in Richard there is no teaching or suggestion of: "...a backup section adapted to boot said computer with said boot OS and to store as a file a content of the hard disk inclusive of a system region in said computer into a designated backup destination", as required by independent claim 1. The remaining independent claims have similar language.

Applicants also submit that the analysis of claim 2 (as well as limitations in claims 3, 10, 11, 13) fails to satisfy the plain meaning of claim 2, since the present invention can restore the entire contents back into the hard disk. That is, in the present invention, there is no need to write the data onto a CD ROM.

Relative to the rejection for claims 7 and 19, the analysis of the rejection currently of record fails to satisfy the plain meaning of language of this claim, since "padding" is a different concept than merely writing data onto a disk assumed to be completely empty, which the Examiner presumes to be filled by a "specific value of null or zero." Writing data onto a disk, such as done in Richard, does not presume empty regions filled up with specific values. In contrast, padding is a process that would fill up a region within a disk with specific values.

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Therefore, Applicants submit that there are elements of the claimed invention that are not taught or suggest by Richard, and the Examiner is respectfully requested to withdraw this rejection.

IV. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

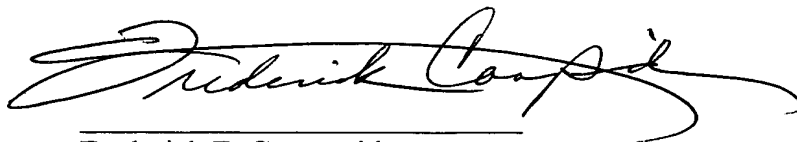
Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: _____

9/15/06



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